

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

DAVID WITT and NYAMDULAM WITT,

Plaintiffs,

vs.

ATLANTIC CREDIT & FINANCE INC.,

Defendant.

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COMPLAINT

INTRODUCTION

1. David and Nyamdulam Witt seek redress from unlawful actions taken by Atlantic Credit & Finance Inc. (“Atlantic”), contrary to the Fair Debt Collection Practices Act, 15 U.S.C. §1692 *et seq.* (“FDCPA”).

JURISDICTION AND VENUE

2. Subject matter jurisdiction rests on 15 U.S.C. §1692k, and 28 U.S.C. §§1331 and 1337.

3. Because Atlantic’s communications were received by plaintiffs here, and because Atlantic does business here, venue and personal jurisdiction in this District are proper.

PARTIES

4. Plaintiffs, who are husband and wife, live in Evanston, Illinois.

5. Atlantic is incorporated under the laws of Virginia, and maintains its headquarters there. Its registered agent is Lexis Document Services Inc. 801 Adlai Stevenson Drive, Springfield, Illinois 62703.

6. Atlantic purchases consumer debts originally owed to others and attempts to collect them. In doing so, it uses the United States Postal Service, as well as telephone, wire and electronic services. It is a debt collector, as defined by 15 U.S.C. §1692a.

FACTS

7. Atlantic tried to collect a debt allegedly owed by Tuul Nyamgerel, who is Ms. Witt’s niece. On information and belief, the alleged debt is on a credit card account used for

personal, family or household purposes.

8. Nyamgerel does not, and has never, resided with plaintiffs.

9. Plaintiffs are not legally liable for Nyamgerel's alleged debt.

10. In late 2013, Atlantic harassed plaintiffs by sending correspondence, and placing numerous telephone calls, to them, in order to attempt collection of Nyamgerel's alleged debt.

11. Atlantic called plaintiffs' cellular phones, regarding Nyamgerel's alleged debt, on these dates and approximate times (stated in Central Time):

- (1) November 5, 2013 at 11:40 a.m., from (540) 772-7800;
- (2) November 5, 2013 at 5:58 p.m., from (540) 772-7800;
- (3) November 5, 2013 at 6:27 p.m., from (540) 772-7800;
- (4) November 6, 2013 at 12:27 p.m., from (540) 772-7800;
- (5) November 6, 2013 at 5:05 p.m., from (540) 772-7800;
- (6) November 7, 2013 at 8:00 a.m., from (540) 772-7800;
- (7) November 7, 2013 at 12:23 p.m., from (800) 888-9419;
- (8) November 7, 2013 at 2:35 p.m., from (540) 772-7800;
- (9) November 8, 2013 at 8:46 a.m., from (540) 772-7800;
- (10) November 8, 2013 at 9:21 a.m., from (540) 772-7800;
- (11) November 8, 2013 at 10:11 a.m., from (540) 772-7800;
- (12) November 8, 2013 at 11:53 a.m., from (540) 772-7800;
- (13) November 8, 2013 at 12:28 p.m., from (540) 772-7800;
- (14) November 11, 2013 at 3:01 p.m., from (540) 772-7800;
- (15) November 11, 2013 at 5:05 p.m., from (540) 772-7800;
- (16) November 11, 2013 at 6:19 p.m., from (540) 772-7800;
- (17) November 12, 2013 at 12:09 p.m., from (540) 772-7800;
- (18) November 12, 2013 at 1:45 p.m., from (540) 772-7800;
- (19) November 12, 2013 at 2:52 p.m., from (540) 772-7800;
- (20) November 12, 2013 at 4:59 p.m., from (540) 772-7800;
- (21) November 13, 2013 at 8:33 a.m., from (540) 772-7800;

- (22) November 13, 2013 at 12:33 p.m., from (540) 772-7800;
- (23) November 13, 2013 at 2:43 p.m., from (540) 772-7800;
- (24) November 13, 2013 at 2:55 p.m., from (540) 772-7800;
- (25) November 13, 2013 at 4:27 p.m., from (540) 772-7800;
- (26) November 13, 2013 at 4:51 p.m., from (540) 772-7800;
- (27) November 14, 2013 at 9:38 a.m., from (540) 772-7800;
- (28) November 14, 2013 at 10:35 a.m., from (540) 772-7800;
- (29) November 14, 2013 at 12:22 p.m., from (800) 888-9419;
- (30) November 14, 2013 at 1:48 p.m., from (800) 888-9419;
- (31) November 14, 2013 at 2:54 p.m., from (540) 772-7800;
- (32) November 18, 2013 at 12:09 p.m., from (800) 888-9419;
- (33) November 18, 2013 at 2:52 p.m., from (540) 772-7800; and
- (34) November 18, 2013 at 4:51 p.m., from (540) 772-7800.

12. (540) 772-7800 is a phone number Atlantic owns or controls. When it is called, a recorded message says “welcome to Atlantic Credit and Finance, America’s premier account receivable company.”

13. (800) 888-9419 is a phone number Atlantic owns or controls. When it is called, a recorded message says “welcome to Atlantic Credit and Finance, America’s premier account receivable company.”

14. During Atlantic’s call on November 6, 2013 at 12:27 p.m. – which was about 40 minutes long – Ms. Witt told Atlantic that plaintiffs were not responsible for Nyamgerel’s alleged debt.

15. Between November 4, 2013 and November 18, 2013, plaintiffs received 24 further calls, for which their cellular phones’ Caller ID listed no number as the source. On information and belief, discovery may show that Atlantic made some or all of these calls.

16. Plaintiffs sent Atlantic the letter marked as Exhibit A on November 11, 2014.

17. After November 18, 2013, Atlantic ceased contacting plaintiffs. Instead, it forwarded Nyamgerel’s alleged debt to collection attorneys, who on May 14, 2014 sent Ms. Witt

the letter attached as Exhibit B. This further harassed and aggravated plaintiffs.

VIOLATION ALLEGED

18. 15 U.S.C. §1692d provides:

A debt collector may not engage in any conduct the natural consequence of which is to harass, oppress, or abuse any person in connection with the collection of a debt. Without limiting the general application of the foregoing, the following conduct is a violation of this section....

- (5) **Causing a telephone to ring or engaging any person in telephone conversation repeatedly or continuously with intent to annoy, abuse, or harass any person at the called number....**

19. 15 U.S.C. §1692e provides:

A debt collector may not use any false, deceptive, or misleading representation or means in connection with the collection of any debt. Without limiting the general application of the foregoing, the following conduct is a violation of this section....

- (2) **The false representation of –**
 - (A) **the character, amount, or legal status of any debt.... [or]**
- (10) **The use of any false representation or deceptive means to collect or attempt to collect any debt or to obtain information concerning a consumer....**

20. By its conduct, Atlantic violated 15 U.S.C. §§1692d and 1692e.

WHEREFORE, the Court should enter judgment in favor of plaintiffs, for:

- (A) statutory damages,
- (B) actual damages,
- (C) attorney's fees, litigation expenses and costs of suit, and
- (D) all other proper relief.

/s/ Daniel A. Edelman
Daniel A. Edelman

Daniel A. Edelman
Cathleen M. Combs
James O. Lattuner
Thomas E. Soule
EDELMAN, COMBS, LATTUNER & GOODWIN, LLC
120 S. LaSalle Street, 18th Floor
Chicago, Illinois 60603
(312) 739-4200
(312) 419-0379 (FAX)
courtecl@edcombs.com

NOTICE OF LIEN AND ASSIGNMENT

Please be advised that we claim a lien upon any recovery herein for 1/3 or such amount as a court awards. All rights relating to attorney's fees have been assigned to counsel.

/s/ Daniel A. Edelman
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DOCUMENT PRESERVATION DEMAND

Plaintiff hereby demands that defendant take affirmative steps to preserve all recordings, data, documents, and all other tangible things that relate to plaintiff, the events described herein, any third party associated with any telephone call, campaign, account, sale or file associated with plaintiff, and any account or number or symbol relating to them. These materials are likely very relevant to the litigation of this claim. If defendant is aware of any third party that has possession, custody, or control of any such materials, plaintiff demands that defendant request that such third party also take steps to preserve the materials. This demand shall not narrow the scope of any independent document preservation duties of the defendant.

/s/ Daniel A. Edelman
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DAVID WITT and NYAMDULAM WITT,

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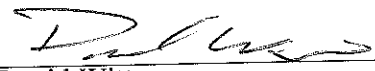
ATLANTIC CREDIT & FINANCE INC.,

Defendant.


VERIFICATION OF COMPLAINT

On penalty of perjury, and pursuant to 28 U.S.C. §1746 and all other applicable rules and laws, we affirm that we have read the complaint to which this verification is attached, and affirm that the facts recited in that complaint are true and correct, to the very best of our knowledge and belief.

Executed on this day, August 4, 2014.



David Witt



Nyamdulam Witt

DAVID P. WITT & NYAMDULAM WITT

EVANSTON, IL

847

773

847

REDACTED

CEASE AND DESIST LETTER

ATLANTIC CREDIT & FINANCE, INC.
2727 Franklin Road SW
Roanoke, VA 24014

CERTIFIED MAIL

RETURN RECEIPT REQUESTED

917199 9991 7032 0764 8753

Tracking number

Date: November 11, 2013

RE: Account Number: Unknown- related to Tuul Nyamgerel

To Whom it May Concern:

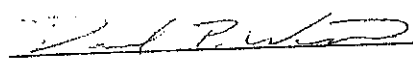
With this letter I hereby request that you CEASE and DESIST any and all telephone calls to the above-listed phone numbers. Please put any attempts to collect on the above-referenced account in writing.

Tuul Nyamgerel does not reside at our household nor did she ever reside in our household.

PLEASE MARK YOUR FILES ACCORDINGLY.

Thank you in advance for your anticipated cooperation in this matter.

Sincerely,



David P. Witt



Nyamdulam Witt

Exhibit A

PSLLC FILE COPY

REDACTED

DATE 11/11/13
TO ATLANTIC CREDIT & FINANCE, INC.
ADDRESS 2727 FRANKLIN ROAD SW
CITY, STATE, ZIP ROANOKE, VA 24014
CLIENT NUMBER DPW CLIENT NAME DPW-PERSONAL
FORM NUMBER DPW-PERSONAL YEAR 2013

91 7199 9991 7032 0764 8753

Confirmation Services	Package ID: 9171999991703207648753	E-CERTIFIED
	Destination ZIP Code: 24014	1ST CLASS LETTER
	Customer Reference:	PBP Account #: 14617237
	Recipient: _____	Serial #: 3198805
	Address: _____	NOV 11 2013 10:50A

[REDACTED]

LAW OFFICES
FREEDMAN ANSELMO LINDBERG LLC
1771 WEST DIXIE ROAD SUITE 150 P.O. BOX 3228
NAPERVILLE, ILLINOIS 60563-4947
(630) 983-0770 FAX (630) 428-4610
TOLL FREE (877) 627-2211

LOUIS S. FREEDMAN

PLEASE REFER TO FILE NO.
[REDACTED] 040

May 14, 2014

REDACTED

NYANDULAH WITT
[REDACTED]

EVANSTON IL [REDACTED]

Re: Creditor to whom this debt is owed: Atlantic Credit & Finance Special Finance Unit III, LLC
Balance claimed as of the date of this letter: [REDACTED]
Original Creditor: GE CAPITAL RETAIL BANK

Dear Sir or Madam:

Please take notice that the captioned creditor has placed with us your account as their debt collector to pursue collection in the full amount stated. At this time, no attorney with this firm has personally reviewed the particular circumstances of your account.

It is important that you contact this office regarding this account. You may send your payment directly to this office.

If you do not dispute the validity of this debt, or any portion thereof, within 30 days of receipt of this letter, the debt will be assumed to be valid by the debt collector. If you notify the debt collector in writing within the thirty day period that the debt, or any portion thereof, is disputed, the debt collector will obtain verification of the debt or obtain a copy of a judgment and mail you a copy of such judgment or verification. The debt collector will also provide you with the name and address of the original creditor, if different from the current creditor, if you request same from the debt collector in writing within 30 days of receipt of this letter.

Very truly yours,
Freedman Anselmo Lindberg, LLC
MLR/D1D2NR

This communication is an attempt to collect a debt from a debt collector and any information obtained
will be used for that purpose.

Exhibit B